

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

Case No.: 9:22-cv-80805

VOLTSTAR TECHNOLOGIES, INC.,

Plaintiff,

v.

CVS PHARMACY, INC.,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff VOLTSTAR TECHNOLOGIES, INC. by and through its undersigned counsel, brings this Complaint against Defendant CVS PHARMACY, INC. for Patent Infringement, and in support, alleges as follows:

NATURE OF THE LAWSUIT

1. This is an action for patent infringement of United States Patent Number 9,024,581, and its Reissue Patent Number RE48,794 E (hereinafter, the “‘794 Patent”) arising under the patent laws of the United States Title 35, United States Code §§ 1 *et seq.* to enjoin further infringement and obtain damages resulting from Defendant CVS Pharmacy, Inc.’s unauthorized manufacture, use, offer to sell and sale in the United States of a product identified and described herein as in violation of Plaintiff Voltstar’s rights under the ‘794 Patent.

JURISDICTION AND VENUE

2. This Court has original and exclusive subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1338(a); and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over the Defendant.

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4. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b) because CVS Pharmacy, Inc. has committed acts of infringement and has a regular and established place of business within this judicial district and division. The accused products identified herein were purchased online and at the CVS Pharmacy store located at 7016 Beracasa Way, Boca Raton, Florida.

THE PLAINTIFF

5. Plaintiff, Voltstar Technologies, Inc. (“Voltstar”), is an Illinois Corporation with a principal place of business located at P.O. Box 3727, Barrington, IL 60010.

THE DEFENDANT

6. CVS PHARMACY, INC. (“CVS”) is a Rhode Island Corporation registered to do business in Florida with its principal place of business at 1 CVS Drive, Woonsocket, RI 02895, and can be served by serving its Registered Agent, CT Corporation System, at 1200 South Pine Island Road, Plantation, Florida 33324.

THE PLAINTIFF'S PATENT

7. Voltstar owns all right, title and interests in, and/or has standing to sue for infringement of United States Patent Number RE48,794 E (the “794 patent”), entitled "Charger Plug With Improved Package", issued on October 26, 2021. A copy of the ‘794 Patent is attached hereto as **Exhibit 1**.

8. Prior to May 21, 2008, James W. McGinley, Donald Rimdzius, and David P. Marcusen, invented a novel and non-obvious Charger Plug with Improved Package.

9. McGinley, Rimdzius, and Marcusen applied for and obtained United States Patent No. 9,024,581 (the “581 patent”) entitled “Charger Plug with Improved Package Electrical Charger” which was duly and legally issued on May 5, 2015.

10. McGinley, Rimdzius and Marcusen assigned all right, title and interest in and to the '581 Patent to Horizon Technologies, Inc. in May, 2008, which was recorded at the United States Patent and Trademark Office on May 21, 2008 at Reel 20979, Frame 56. Horizon Technologies, Inc. changed its name to Voltstar Technologies, Inc. and recorded such change of name at the United States Patent and Trademark Office on March 1, 2010, and corrected on November 22, 2010 at Reel 25411, Frame 783.

11. In general, non-legal terms, the '581 Patent relates to a Charger that is to be connected between a source of AC power, such as a wall outlet, and a device such as a mobile phone that includes a battery with the battery being rechargeable through the use of DC power. The size and shape of the Charger are such that upon plugging the Charger into a source of AC power such as a wall outlet, (a) the Charger does not block or interfere with the use of adjacent outlets and (b) the Charger does not interfere with objects or furniture that may be placed adjacent to or in front of the outlet. In addition, the size and shape of the Charger are such that (a) a power cord for the device to be charged may be easily inserted into and removed from the Charger while the Charger is plugged into the source of AC power and (b) removal of the power cord from the Charger can be accomplished without removal of the Charger from the source of AC power. An example of the "Charger Plug with Improved Package Electrical Charger" is shown below:



12. On October 26, 2021, the U.S. Patent No. 9,024,581 was reissued as Patent Number US RE48,794 E (“the ‘794 Patent”). The reissued ‘794 Patent, in part, specifically amended Claim 1(i) to now state: “being sized so that the charger plug housing comprises a longitudinal length extending between the front wall and the rear end and the longitudinal length is less than 2.0 inches, a width of the housing outer profile being less than 1.75 inches ...”¹

13. Pursuant to 35 U.S.C. § 252, Claim 1 of the reissued ‘794 Patent is substantially identical with the original U.S. Patent No. 9,024,581 in that it has only limited the sizing dimensions of the claimed invention. Therefore, the reissued ‘794 Patent is a continuation of the original U.S. Patent No. 9,024,581 and has effect continuously from the date of the original patent as May 5, 2015.

¹ The previous language of the U.S. Patent No. 9,024,581 Claim 1(i) stated: “being sized so that the charger plug housing comprises a longitudinal length extending between the front wall and the rear end and the longitudinal length is equal to or less than 2.0 inches ...”

On reissue, the USPTO amended the claim language. The bolded language was omitted and the italicized portion was included, shown as follows: “being sized so that the charger plug housing comprises a longitudinal length extending between the front wall and the rear end and the longitudinal length is [equal to or] less than 2.0 inches, *a width of the housing outer profile being less than 1.75 inches ...*”

DEFENDANT'S PRODUCTS

Accused Product #1 – Skullcandy AC Adapter with USB Port

14. CVS makes, uses, offers for sale and sells Skullcandy AC Adapter with USB Port.

An example of the Skullcandy AC Adapter with USB Port distributed by CVS is shown below.



15. At all times during which CVS made, used, offered to sell and sold the Skullcandy AC Adapter with USB Port that infringe one or more of the claims of the ‘794 Patent, CVS had knowledge of the ‘794 Patent and/or its parent patent, the ‘581 Patent.

16. CVS advertises the use of and sells its Skullcandy AC Adapter with USB Port *charger* that is to be connected between a source of AC power, such as a wall outlet, and a device such as a mobile phone that includes a battery with the battery being rechargeable through the use of DC power.

17. In particular, the Skullcandy AC Adapter with USB Port charger distributed by CVS employ a reduced plug-size charger plug, that upon plugging the Skullcandy AC Adapter with USB Port charger into a source of AC power such as a wall outlet, the Skullcandy AC Adapter with USB Port does not block or interfere with the use of adjacent outlets.

18. Moreover, the size and shape of the Skullcandy AC Adapter with USB Port charger are such that a power cord for the device to be charged may be easily inserted into and removed from the Skullcandy AC Adapter with USB Port while the charger is plugged into the

source of AC power and removal of the power cord from the Skullcandy AC Adapter with USB Port charger can be accomplished without removal of the charger from the source of AC power.

19. Attached hereto as **Exhibit 2** is a Claim Chart that illustrates each element of the infringing Skullcandy AC Adapter with USB Port charger as compared to Claim 1 in the '794 Patent.

20. CVS infringed at least one of the claim of the '794 Patent by offering to sell and by selling a charger plug identified as Skullcandy AC Adapter with USB Port.

21. The Skullcandy AC Adapter with USB Port charger has a longitudinal length less than 2 inches, approximately 1.851 inches, and a width of less than 1.75 inches, approximately 1.554 inches.

Accused Product #2 – iHip Cute Power Rapid Dual Wall Charger

22. CVS makes, uses, offers for sale and iHip Cute Power Rapid Dual Wall Charger. An example of the iHip Cute Power Rapid Dual Wall Charger distributed by CVS is shown below.



23. At all times during which CVS made, used, offered to sell and sold the iHip Cute Power Rapid Dual Wall Charger that infringe one or more of the claims of the '794 Patent, CVS had knowledge of the '794 Patent and/or its parent patent, the '581 Patent.

24. CVS advertises the use of and sells its iHip Cute Power Rapid Dual Wall *Charger* that is to be connected between a source of AC power, such as a wall outlet, and a device such as

a mobile phone that includes a battery with the battery being rechargeable through the use of DC power.

25. In particular, the iHip Cute Power Rapid Dual Wall Charger distributed by CVS employ a reduced plug-size charger plug, that upon plugging the iHip Cute Power Rapid Dual Wall Charger into a source of AC power such as a wall outlet, the iHip Cute Power Rapid Dual Wall Charger does not block or interfere with the use of adjacent outlets.

26. Moreover, the size and shape of the iHip Cute Power Rapid Dual Wall Charger are such that a power cord for the device to be charged may be easily inserted into and removed from the iHip Cute Power Rapid Dual Wall Charger while the charger is plugged into the source of AC power and removal of the power cord from the iHip Cute Power Rapid Dual Wall Charger can be accomplished without removal of the charger from the source of AC power.

27. Attached hereto as **Exhibit 3** is a Claim Chart that illustrates each element of the infringing iHip Cute Power Rapid Dual Wall Charger as compared to Claim 1 in the '794 Patent.

28. CVS infringed at least one of the claim of the '794 Patent by offering to sell and by selling a charger plug identified as iHip Cute Power Rapid Dual Wall Charger.

29. The iHip Cute Power Rapid Dual Wall Charger has a longitudinal length less than 2 inches, approximately 1.118 inches, and a width of less than 1.75 inches, approximately 1.272 inches.

Accused Product #3 – Griffin Wall Charger

30. CVS makes, uses, offers for sale and sells Griffin Wall Charger. An example of the Griffin Wall Charger distributed by CVS is shown below.



31. At all times during which CVS made, used, offered to sell and sold the Griffin Wall Charger that infringe one or more of the claims of the ‘794 Patent, CVS had knowledge of the ‘794 Patent and/or its parent patent, the ‘581 Patent.

32. CVS advertises the use of and sells its Griffin Wall *Charger* that is to be connected between a source of AC power, such as a wall outlet, and a device such as a mobile phone that includes a battery with the battery being rechargeable through the use of DC power.

33. In particular, the Griffin Wall Charger distributed by CVS employ a reduced plug-size charger plug, that upon plugging the Griffin Wall Charger into a source of AC power such as a wall outlet, the Griffin Wall Charger does not block or interfere with the use of adjacent outlets.

34. Moreover, the size and shape of the Griffin Wall Charger are such that a power cord for the device to be charged may be easily inserted into and removed from the Griffin Wall Charger while the charger is plugged into the source of AC power and removal of the power cord from the Griffin Wall Charger can be accomplished without removal of the charger from the source of AC power.

35. Attached hereto as **Exhibit 4** is a Claim Chart that illustrates each element of the infringing Griffin Wall Charger as compared to Claim 1 in the ‘794 Patent.

36. CVS infringed at least one of the claim of the '794 Patent by offering to sell and by selling a charger plug identified as Griffin Wall Charger.

37. The Griffin Wall Charger has a longitudinal length less than 2 inches, approximately 1.308 inches, and a width of less than 1.75 inches, approximately 1.360 inches.

COUNT I
DIRECT INFRINGEMENT OF U.S. PATENT NO. RE48,794 E

38. Voltstar repeats, realleges, and incorporates by reference, as if fully set forth herein paragraphs 1 through 37, as set forth above.

39. Within the six years preceding the filing of this Complaint, CVS has directly infringed at least one claim of U.S. Patent No. RE48,794 E by the activities referred to in this Complaint in violation of 35 U.S.C. § 271(a).

40. Without limiting the foregoing, Defendant has infringed at least all steps of Claim 1 of the '794 Patent as described in the Claim Chart attached hereto as **Exhibit 2, Exhibit 3 and Exhibit 4.**

41. CVS's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without license, permission, or authorization from Voltstar.

42. CVS's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products including Skullcandy AC Adapter with USB Port, iHip Cute Power Rapid Dual Wall Charger, Griffin Wall Charger, which incorporates Voltstar's patent.

43. Defendant's infringement of the '794 Patent have injured and continues to injure Voltstar in an amount to be proven at trial, but not less than a reasonable royalty.

COUNT II
INDIRECT INFRINGEMENT OF U.S. PATENT NO. RE48,794 E

44. Voltstar repeats, realleges and incorporates by reference, as if fully set forth herein paragraphs 1 through 37, as set forth above.

45. Within the six years preceding the filing of this Complaint, CVS has indirectly infringed at least one claim of U.S. Patent No. RE48,794 E, by requesting and encouraging and inducing customers to distribute the ‘794 infringing products in violation of 35 U.S.C. § 271(b).

46. CVS has induced and continues to induce infringement of at least Claim 1 of the ‘794 Patent under 35 U.S.C. § 271(b).

47. CVS’s activities alleged in this Count have been without license permission or authorization from Voltstar.

48. CVS knowingly and actively aided and abetted the direct infringement of the ‘794 Patent by instructing and encouraging its customers, purchasers, users and developers to distribute the ‘794 infringing products. Such instructions and encouragement included, but are not limited to, advising third parties to use the ‘794 infringing products in an infringing manner, providing a mechanism through which third parties may infringe the ‘794 Patent, and by advertising and promoting the use of the ‘794 infringing products in an infringing manner, and distributing guidelines and instructions to third parties on how to use the ‘794 infringing products in an infringing manner.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Voltstar Technologies, Inc. demands judgment and relief against Defendant CVS Pharmacy, Inc. and respectfully requests that the Court:

- A. An entry of judgment holding that Defendant has infringed and is infringing the ‘794 Patent and has induced infringement and is inducing infringement of the ‘794 Patent;
- B. For an accounting and an award of damages sufficient to compensate Voltstar for the infringement in no event less than a reasonable royalty pursuant to 35 U.S.C. § 284;
- C. A determination that Defendant’s infringement has been willful, wanton, and deliberate and that the damages against it be increased up to treble on this basis or for any other basis in accordance with the law;
- D. A finding that this case is an exceptional case under 35 U.S.C. § 284 and an award to Voltstar of its costs and reasonable attorneys’ fees as provided by 35 U.S.C. § 285;
- E. An accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest from the first date of infringement of the ‘794 Patent; and
- F. That Voltstar is entitled to such other and further relief as to the Court appears just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: June 1, 2022

Respectfully submitted,

/s/ Joel B. Rothman

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